86R1732 JAM-D

By:  Swanson H.B. No. 96

A BILL TO BE ENTITLED

AN ACT

relating to the evaluation of an application for a low income housing tax credit.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 2306.6705, Government Code, is amended to read as follows:

Sec. 2306.6705.  GENERAL APPLICATION REQUIREMENTS. (a) An application must contain at a minimum the following written, detailed information in a form prescribed by the board:

(1)  a description of:

(A)  the financing plan for the development, including any nontraditional financing arrangements;

(B)  the use of funds with respect to the development;

(C)  the funding sources for the development, including:

(i)  construction, permanent, and bridge loans; and

(ii)  rents, operating subsidies, and replacement reserves; and

(D)  the commitment status of the funding sources for the development;

(2)  if syndication costs are included in the eligible basis, a justification of the syndication costs for each cost category by an attorney or accountant specializing in tax matters;

(3)  from a syndicator or a financial consultant of the applicant, an estimate of the amount of equity dollars expected to be raised for the development in conjunction with the amount of housing tax credits requested for allocation to the applicant, including:

(A)  pay-in schedules; and

(B)  syndicator consulting fees and other syndication costs;

(4)  if rental assistance, an operating subsidy, or an annuity is proposed for the development, any related contract or other agreement securing those funds and an identification of:

(A)  the source and annual amount of the funds;

(B)  the number of units receiving the funds; and

(C)  the term and expiration date of the contract or other agreement;

(5)  if the development is located within the boundaries of a political subdivision with a zoning ordinance, evidence in the form of a letter from the chief executive officer of the political subdivision or from another local official with jurisdiction over zoning matters that states that:

(A)  the development is permitted under the provisions of the ordinance that apply to the location of the development; or

(B)  the applicant is in the process of seeking the appropriate zoning and has signed and provided to the political subdivision a release agreeing to hold the political subdivision and all other parties harmless in the event that the appropriate zoning is denied;

(6)  if an occupied development is proposed for rehabilitation:

(A)  an explanation of the process used to notify and consult with the tenants in preparing the application;

(B)  a relocation plan outlining:

(i)  relocation requirements; and

(ii)  a budget with an identified funding source; and

(C)  if applicable, evidence that the relocation plan has been submitted to the appropriate local agency;

(7)  a certification of the applicant's compliance with appropriate state and federal laws, as required by other state law or by the board;

(8)  any other information required by the board in the qualified allocation plan; and

(9)  evidence that the applicant has notified the following entities with respect to the filing of the application:

(A)  any neighborhood organization that is [~~organizations~~] on record with the state or county in which the development is to be located and that has [~~whose~~] boundaries containing [~~contain~~] the proposed development site or has a boundary located not more than one mile from the proposed site;

(B)  the superintendent and the presiding officer of the board of trustees of the school district containing the development;

(C)  the presiding officer of the governing body of any municipality containing the development and all elected members of that body;

(D)  the presiding officer of the governing body of the county containing the development and all elected members of that body; and

(E)  the state senator and state representative of the district containing the development.

(b)  Notice provided under Subsection (a)(9) must:

(1)  be given at least 90 days before the date the application is submitted to the department;

(2)  name the development and conspicuously identify the development as "low-income government-subsidized housing"; and

(3)  contain a description of the development and an independent study of the development's anticipated effects on local schools, area crime rates, infrastructure, governmental expenditures, population density, area property values, and the revenue of local, state, and federal governmental entities.

(c)  In addition to the requirements under Subsection (a) and other provisions of this subchapter, an application must be accompanied by any written statements submitted to the developer under Section 2306.6710(b)(1)(I), (J), or (K).

SECTION 2.  Section 2306.6708, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a)  Except as provided by Subsections [~~Subsection~~] (b) and (c), an applicant may not change or supplement an application in any manner after the filing deadline.

(c)  Not later than June 15, an applicant may supplement an application with a written statement provided under Section 2306.6710(b)(1)(J).

SECTION 3.  Section 2306.6710, Government Code, is amended by amending Subsections (b) and (f) and adding Subsections (g), (h), and (i) to read as follows:

(b)  If an application satisfies the threshold criteria, the department shall score and rank the application using a point system that:

(1)  prioritizes in descending order criteria regarding:

(A)  financial feasibility of the development based on the supporting financial data required in the application that will include a project underwriting pro forma from the permanent or construction lender;

(B)  quantifiable community participation with respect to the development, evaluated on the basis of a resolution concerning the development that is voted on and adopted by the following, as applicable:

(i)  the governing body of a municipality in which the proposed development site is to be located;

(ii)  subject to Subparagraph (iii), the commissioners court of a county in which the proposed development site is to be located, if the proposed site is to be located in an area of a county that is not part of a municipality; or

(iii)  the commissioners court of a county in which the proposed development site is to be located and the governing body of the applicable municipality, if the proposed site is to be located in the extraterritorial jurisdiction of a municipality;

(C)  the income levels of tenants of the development;

(D)  the size and quality of the units;

(E)  the rent levels of the units;

(F)  the cost of the development by square foot;

(G)  the services to be provided to tenants of the development;

(H)  whether, at the time the complete application is submitted or at any time within the two-year period preceding the date of submission, the proposed development site is located in an area declared to be a disaster under Section 418.014;

(I)  quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organization that is [~~organizations~~] on record with the state or county in which the development is to be located and that has [~~whose~~] boundaries containing [~~contain~~] the proposed development site; [~~and~~]

(J)  the level of community support for the application, evaluated on the basis of a written statement from the state representative who represents the district containing the proposed development site; and

(K)  quantifiable community participation with respect to the development, evaluated on the basis of written statements from any neighborhood organization that is on record with the state or county in which the development is to be located and that has a boundary located not more than one mile from the proposed site, other than an organization described by Paragraph (I);

(2)  uses criteria imposing penalties on applicants or affiliates who have requested extensions of department deadlines relating to developments supported by housing tax credit allocations made in the application round preceding the current round or a developer or principal of the applicant that has been removed by the lender, equity provider, or limited partners for its failure to perform its obligations under the loan documents or limited partnership agreement; and

(3)  encourages applicants to provide free notary public service to the residents of the developments for which the allocation of housing tax credits is requested.

(f)  In evaluating quantifiable community participation or the level of community support [~~for an application~~] under Subsection (b)(1)(I) or (J) [~~(b)(1)(J)~~], as applicable, the department shall award:

(1)  positive points for positive written statements received;

(2)  negative points for negative written statements received; and

(3)  zero points for neutral written statements received.

(g)  In evaluating quantifiable community participation under Subsection (b)(1)(K), the department shall award:

(1)  zero points for positive or neutral written statements received; and

(2)  negative points for negative written statements received.

(h)  The maximum number of negative points that may be awarded under Subsection (g) based on quantifiable community participation described by Subsection (b)(1)(K) shall be three-eighths of the maximum number of negative points that may be awarded under Subsection (f) based on the level of community support described by Subsection (b)(1)(J).

(i)  The department shall notify a person or organization who submits a written statement under Subsection (b)(1)(I), (J), or (K) that the department has received the statement and shall provide a copy of that statement to the applicant.

SECTION 4.  The change in law made by this Act applies only to an application for low income housing tax credits that is submitted to the Texas Department of Housing and Community Affairs during an application cycle that is based on the 2020 qualified allocation plan or a subsequent plan adopted by the governing board of the department under Section 2306.67022, Government Code. An application that is submitted during an application cycle that is based on an earlier qualified allocation plan is governed by the law in effect on the date the application cycle began, and the former law is continued in effect for that purpose.

SECTION 5.  This Act takes effect September 1, 2019.